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February 25, 2010

Marcus E. Sernel  
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Re: Centocor Ortho Biotech, Inc. v. Genentech, Inc. and City of Hope  
Case No. 08-cv-03573

Dear Marc:

I am writing in response to your February 24, 2010 letter regarding Centocor's discovery responses and document production.

First, your request for Centocor to supplement its contentions about the patents-in-suit is premature in view of Genentech's failure to timely provide discovery Centocor has requested that is relevant to these contentions. For example, Genentech has yet to respond to Centocor's deposition notices for several witnesses with knowledge about the Cabilly II and 335 patents. Indeed, despite our repeated inquiries, Genentech has not even provided any proposed deposition dates for inventors Heyneker and Holmes. These depositions were noticed almost three months ago and Centocor can no longer accept Genentech's repeated representations that dates will be forthcoming. Please immediately provide proposed dates for Drs. Heyneker and Holmes or, alternatively, provide Social Security numbers and last known addresses so that Centocor may locate and subpoena these witnesses.

We have also been waiting for nearly a month for Genentech's response to our deposition notices for the attorneys with knowledge of the prosecution of the Cabilly patents. Because Genentech has not made those key witnesses available, Centocor's discovery on the Cabilly II and 335 patents has not yet been completed.

Notwithstanding the foregoing, and although we do not agree that there are current deficiencies in Centocor's responses, we have been preparing supplemental responses to many of the interrogatories, and we will serve those shortly.

Second, as we have previously discussed with you, we are endeavoring to respond to Genentech's vague and overbroad document requests. Further production is forthcoming. We also ask that Genentech immediately produce documents showing profits, profit projections, and gross and net revenues derived from products that embody any alleged invention of the Cabilly II

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Page 2

and/or 335 patents. Those documents are responsive at least to Centocor's Request for Production Nos. 139-142 and 187-190.

Third, as you know, Centocor has objected to Genentech's request for declarations and reports from the *Abbott* litigation as unduly burdensome and not relevant to the issues in this case. We have already produced a substantial amount of information from that litigation, including transcripts and pleadings that are not subject to any confidentiality restrictions but reflect the positions of the parties in that litigation. Until Genentech articulates the relevance of the additional materials now requested, Centocor cannot be expected to undertake the burdensome project of isolating Abbott confidential information and preparing redacted versions of the additional documents requested.

As always, please feel free to contact me with any questions or if you'd like to discuss these issues further.

Regards,



Matthew A. Pearson

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